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SENATE BILL 393 By
Haynes

HOUSE BILL 1284
By Langster

AN ACT to amend Tennessee Code Annotated, Title 57, Chapter 3, Part 2 and Title 57, Chapter 3, Part 5, relative to criminal history records checks of applicants seeking a certificate of compliance and license for the retail sale of alcoholic beverages.

WHEREAS, governments are charged with the duty to ensure the health, safety, and welfare of the public; and

WHEREAS, Tennessee Code Annotated, §§ 57-3-208 and 57-3-210 prohibit the issuance of a retailer's license to a person who has been convicted of a felony or an offense regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling of intoxicating liquors within the ten (10) years preceding application for such licensure; and

WHEREAS, the United States Department of Justice, acting through the Federal Bureau of Investigation, controls access to national criminal databases; and

WHEREAS, the Federal Bureau of Investigation will not grant local officials access to criminal history information for licensing purposes, unless state law specifically authorizes criminal history background checks for license applicants; and

WHEREAS, the Tennessee Bureau of Investigation maintains access to criminal history data on statewide and national bases and is of the opinion that neither municipal nor county

executives may legally access national criminal databases to determine if applicants qualify for a retail liquor license; and

WHEREAS, Tennessee Code Annotated, § 57-3-504 presently prohibits any inspection fee in addition to the inspection fee authorized in Tennessee Code Annotated, § 57-3-501; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 57-3-208, is amended by adding the following language as a new, appropriately designated subsection:

(g)

(1) The general assembly finds and declares that conducting a criminal history records check of applicants desiring a license for the retail sale of alcoholic beverages is for a law enforcement purpose.

(2) Notwithstanding any provision of law to the contrary, all applicants for a retailer's license to sell alcoholic beverages shall, prior to the issuance of any certificate pursuant to the provisions of this section, submit a full set of fingerprints to the municipality or county for positive identification of the applicant. Upon such submission, the municipality or county shall conduct a statewide and national criminal conviction records check of the applicant.

(3)

(A) The municipality or county may make written inquiry of the Tennessee bureau of investigation (TBI) to request criminal history data, or may access TBI data for the limited purpose of determining if a certificate of compliance for the retail sale of alcoholic beverages should be issued. All such written requests shall be accompanied by appropriate fingerprint cards. Upon such a request, the TBI shall search its criminal history and fingerprint files for criminal history information related to the

applicant and provide any information found, excluding that which is confidential or expunged, to the municipality or county. TBI shall further allow the municipality or county, in conducting criminal history checks, access to data maintained by or through TBI for the purpose of conducting such checks manually or through electronic terminals or other means.

(B) Any cost incurred by the TBI in conducting such investigations of applicants shall be paid by the municipality or county making the request.

(C) The municipal or county government may recover the cost of processing the criminal history background check, including fingerprint verification of identity, through an additional fee charged the applicant.

SECTION 2. Tennessee Code Annotated, Section 57-3-504, is amended by adding the following language as a new, appropriately designated subsection:

(d) Notwithstanding any provision of law to the contrary, municipalities or principal municipalities, in those counties that have adopted a metropolitan form of government, may collect additional fees to reimburse the municipalities or principal municipalities the cost of conducting criminal history background checks, including fingerprint verification of identity, from applicants requesting the certificate required pursuant to § 57-3-208.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.